

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Daniel Granda	)	File Numbers: EB-03-LA-050
	)	EB-2002-347
Licensee of Amateur Station KA6VHC	)	NAL/Acct. No. 200432900001
Whittier, California	)	FRN 0008889461

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

Released: March 31, 2004

By the District Director, Los Angeles Office, Enforcement Bureau:

**I. INTRODUCTION**

1. In this Notice of Apparent Liability for Forfeiture ("*NAL*"), we find Daniel Granda, licensee of Amateur radio station KA6VHC, has willfully and repeatedly violated Sections 308(b) and 333 of the Communications Act of 1934, as amended and Sections 97.101(b) and 97.101(d) of the Commission's Rules.<sup>1</sup> Specifically, we find Mr. Granda apparently liable for failure to respond to official Commission correspondence and causing intentional interference to Amateur radio communications. We conclude, pursuant to Section 503(b) of the Communications Act of 1934, as amended ("*Act*"),<sup>2</sup> that Daniel Granda is apparently liable for a forfeiture in the amount of eleven thousand dollars (\$11,000).

**II. BACKGROUND**

2. On December 4, 2002, the Enforcement Bureau issued via regular and certified mail a Warning Notice to Mr. Granda for causing deliberate interference to amateur repeater stations KD6ZLZ and WA6NJJ, based upon a complaint received by the Bureau on November 18, 2002.<sup>3</sup> Mr. Granda was required to provide, within 60 days of the date of the letter, a detailed plan to prevent interference to repeaters KD6ZLZ and WA6NJJ. The December 4, 2002, Notice sent via certified mail to Mr. Granda was returned as "Unclaimed" on January 6, 2003. The Notice sent by regular mail was not returned to the Enforcement Bureau.

3. On January 7, 2003, the Commission issued via regular and certified mail a follow-up Warning Notice that included the December 4, 2002, Warning Notice and enclosed a complaint about

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<sup>1</sup> 47 U.S.C. §§ 308(b), 333 and 47 C.F.R. §§ 97.101(b), 97.101(d).

<sup>2</sup> 47 U.C.S. § 503(b).

<sup>3</sup> See Warning Notice from W. Riley Hollingsworth, Special Counsel, Enforcement Bureau, Federal Communications Commission, to Mr. Daniel Granda, dated December 4, 2002.

interference from Mr. Granda's station.<sup>4</sup> The January 7, 2003, Notice sent via certified mail to Mr. Granda was returned as "Unclaimed" on January 13, 2003. The Notice sent by regular mail was not returned to the Commission.

4. On January 13, 2003, the District Director of the Los Angeles Field Office issued a Warning Notice to Mr. Granda, through certified and regular mail, that his station was transmitting improperly and causing interference to other stations, and that automatic control must cease and not be resumed without prior approval<sup>5</sup>. The Notice sent via certified mail to Mr. Granda was returned as "Unclaimed" on January 30, 2003. The Notice sent by regular mail was not returned to the Los Angeles Field Office.

5. On March 6, 2003, an agent of the Los Angeles Office determined that Mr. Granda's station, KA6VHC, was re-transmitting communications from 223.275 MHz onto 222.24/223.84 MHz, the input/output frequencies of another Amateur repeater, WA6NJJ.

6. On March 21, 2003, an agent of the Los Angeles Office recorded Mr. Granda's station, KA6VHC, interfering with the input frequency of the WA6NJJ repeater. Again, Mr. Granda's station, KA6VHC, was re-transmitting communications from 223.275 MHz onto the repeater station operating on the frequencies 222.24/223.84 MHz.

7. On April 1, 2003, an agent of the Los Angeles Office determined that Mr. Granda's station, KA6VHC, was re-transmitting communications from 147.4375 MHz onto the repeater station operating on the frequencies 222.24/223.84 MHz.

8. On April 2, 2003, an agent of the Los Angeles Office positively identified, through mobile direction finding techniques, transmissions from Mr. Granda's residence at 5522 Greenleaf Avenue, Whittier, CA 90601, as the source of an unidentified un-modulated carrier.

9. On April 8, 2003, an agent of the Los Angeles Office monitored 222.24/223.84 MHz and determined, by direction finding techniques, that Mr. Granda's station, KA6VHC, was retransmitting communications from 147.49 MHz onto the repeater station operating on the frequencies 222.24/223.84 MHz and interfering with ongoing radio communications.

10. On April 14, 2003, an agent of the Los Angeles Office determined that KA6VHC was re-transmitting communications from 147.4375 MHz onto the repeater station operating on the frequencies 222.24/223.84 MHz. The agent also identified and recorded radio interference transmitted by KA6VHC on the frequency 223.84.

11. On April 15, 2003, agents of the Los Angeles Office positively identified the source of radio signals on 222.24 MHz through mobile direction finding to 5522 Greenleaf Avenue, Whittier, the residence of Mr. Granda. The agents conducted an inspection of Mr. Granda's station at that location and observed radio equipment capable of transmitting on all of the frequencies referenced above. Mr. Granda orally admitted that he received several Warning Notices from the Commission. During the inspection, Mr. Granda stated that a person in Covina was using "his" frequency, 222.24/223.84 MHz. Additionally, Mr. Granda stated he was trying to prevent anyone from using "his" frequency by re-transmitting 147.49 MHz signals on 222.24/223.84 MHz to "keep the channel occupied".

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<sup>4</sup> See Warning Notice from W. Riley Hollingsworth, Special Counsel, Enforcement Bureau, Federal Communications Commission, dated January 7, 2003.

<sup>5</sup> See Warning Notice from Catherine Deaton, District Director, Los Angeles Office, Enforcement Bureau, Federal Communications Commission, dated January 13, 2003.

12. On April 16, 2003, an agent of the Los Angeles Office observed that audio from 147.49 MHz was being re-transmitted onto 222.24/223.84 MHz from Mr. Granda's residence.

### III. DISCUSSION

13. Section 503(b) of the Act provides that any person who willfully or repeatedly fails to comply substantially with the terms and conditions of any license, or willfully or repeatedly fails to comply with any of the provisions of the Act or of any rule, regulation or order issued by the Commission thereunder, shall be liable for a forfeiture penalty.<sup>6</sup> The term "willful" as used in Section 503(b) has been interpreted to mean simply that the acts or omissions are committed knowingly.<sup>7</sup> The term "repeated" means the commission or omission of such act more than once or for more than one day.<sup>8</sup>

14. Section 308(b) of the Act states that the Commission, at any time after the filing of an original application, may require from a licensee written statements of fact to determine if a license should be revoked. On three separate occasions, December 4, 2002, January 7, 2003, and January 13, 2003, Mr. Granda was issued Notices by the Commission, requiring responses. In all three cases, Mr. Granda failed to respond to the Notices issued by the Commission.

15. Section 333 of the Act and Section 97.101(d) of the Commission's Rules states that no amateur operator shall willfully or maliciously interfere with or cause interference to any radio communication or signal. Additionally, Section 97.101(b) states that each licensee and control operator must cooperate in selecting transmitting channels and no frequency will be assigned for the exclusive use of any station. Mr. Granda willfully and maliciously caused interference to other stations and conducted activity in an effort to obtain exclusive use of the channel for his own station. These activities occurred on March 6, March 21, April 1, April 2, April 8, April 14, April 15 and April 16, 2003.

16. Based on the evidence before us, we find that Granda operated radio transmitting equipment in willful and repeated violation of Section 308(b) of the Act, Section 333 of the Act, Section 97.101(d) and 97.101(b) of the Rules by failing to respond to Commission correspondence and causing malicious interference and transmitting signals in an attempt to exclusively use a frequency.

17. The base forfeiture amount set by *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines* ("Forfeiture Policy Statement"),<sup>9</sup> and Section 1.80 of the Commission's Rules,<sup>10</sup> for failure to respond to Commission correspondence is \$4,000 and causing interference is \$7,000. In assessing the monetary forfeiture

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<sup>6</sup> 47 U.S.C. § 503(b).

<sup>7</sup> Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act ...." See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

<sup>8</sup> Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'repeated', when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day."

<sup>9</sup> 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999).

<sup>10</sup> 47 C.F.R. § 1.80(b)(4).

amount, we must take into account the statutory factors set forth in Section 503(b)(2)(D) of the Act,<sup>11</sup> which include the nature, circumstances, extent, gravity, ability to pay, and other such matters as justice may require. Applying the *Forfeiture Policy Statement* and the statutory factors to the instant case, we believe that an eleven thousand dollar (\$11,000) monetary forfeiture is warranted.

#### IV. ORDERING CLAUSES

18. Accordingly, **IT IS ORDERED THAT**, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.311 and 1.80 of the Commission's Rules, Daniel Granda is hereby NOTIFIED of this APPARENT LIABILITY FOR FORFEITURE in the amount of twelve thousand dollars (\$11,000) for willful and repeated violations of Section 308(b) and Section 333 of the Communications Act of 1934, as amended, Section 97.101(b) and Section 97.101(d) of the Commission's Rules.<sup>12</sup>

19. **IT IS FURTHER ORDERED THAT**, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this **NOTICE OF APPARENT LIABILITY**, Daniel Granda **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

20. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, and P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. and FRN referenced in the caption.

21. Any response to this NAL must be mailed to Federal Communications Commission Office of the Secretary, 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554, Attn: Enforcement Bureau-Spectrum Enforcement Division and MUST INCLUDE THE NAL/Acct. No. and FRN referenced in the caption.

22. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

23. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Chief, Credit and Debt Management Center, 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554.<sup>13</sup>

24. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the Spectrum Enforcement Division. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the

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<sup>11</sup> 47 U.S.C. § 503(b)(2)(D).

<sup>12</sup> 47 U.S.C. §§ 503(b), 308(b), 333; 47 C.F.R. §§ 0.111, 0.311, 1.80, 97.101(b), 97.101(d).

<sup>13</sup> See 47 C.F.R. § 1.1914.

list provided by the FCC's Office of Communications Business Opportunities ("OCBO") set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

25. **IT IS FURTHER ORDERED THAT** this Notice shall be sent, by Certified Mail, Return Receipt Requested, and by regular mail, to Daniel Granda, 5522 Greenleaf Avenue, Whittier, CA 90601.

FEDERAL COMMUNICATIONS COMMISSION

Catherine Deaton  
District Director  
Los Angeles District Office

Enclosure: FCC List of Small Entities